

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

JUSTIN M. FENNEY,

Petitioner,

v.

Case No. 16-CV-1882 (JNE/TNL)
ORDER

STATE OF MINNESOTA,

Respondent.

This matter is before the Court on a Report and Recommendation (“R&R”) issued by the Honorable Tony N. Leung, United States Magistrate Judge, on November 10, 2016. (Docket No. 15.) The R&R recommends dismissing Petitioner Justin M. Fenney’s petition for a writ of habeas corpus under 28 U.S.C. § 2254 (Dkt. No. 1) without prejudice, denying the request for a stay and abeyance (Dkt. No. 2), and not issuing a certificate of appealability. Neither party objected to the R&R. Nevertheless, the Court conducted a de novo review of the record. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3); D. Minn. LR 72.2(b)(3). Based on that review, the Court accepts the R&R’s recommended disposition.

Therefore, IT IS ORDERED THAT:

1. Petitioner’s petition for a writ of habeas corpus under 28 U.S.C. § 2254 [Dkt. No. 1] is **DISMISSED WITHOUT PREJUDICE**.
2. Petitioner’s Notice and Request for Stay and Abeyance [Dkt. No. 2] is **DENIED**.
3. A certificate of appealability is **DENIED**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: December 20, 2016

s/Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge